

ENTERED

March 06, 2023

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SHAWN GILL, <i>et al</i> ,	§	CIVIL ACTION NO
Plaintiffs,	§	4:20-cv-00528
	§	
	§	
vs.	§	JUDGE CHARLES ESKRIDGE
	§	
	§	
CONCORD EMS INC,	§	
and GENEVA	§	
TRANSPORT INC,	§	
Defendants.	§	

**ORDER ADOPTING
MEMORANDUM AND RECOMMENDATION**

Plaintiffs Shawn Gill, *et al*, filed this collective action against Defendants Concord EMS, Inc and Geneva Transport, Inc under the Fair Labor Standards Act. Dkt 7. Plaintiffs moved for partial summary judgment, and Defendants moved for summary judgment. Dkts 74 & 80. Defendants also objected to and moved to strike Plaintiffs' Exhibit F, attached to Plaintiffs' motion for partial summary judgment. Dkt 79.

Pending is a Memorandum and Recommendation by Magistrate Judge Sam S. Sheldon on the motions for summary judgment and the motion to strike. Dkt 92. He recommends that the motion to strike be granted because (i) the evidence is unauthenticated in violation of Federal Rule of Evidence 901, and (ii) Plaintiffs didn't respond to the motion. *Id* at 7. He recommends that both motions for summary judgment be denied due to the existence of genuine disputes of material fact. *Id* at 12, 14.

The district court reviews *de novo* those conclusions of a magistrate judge to which a party has specifically objected. See FRCP 72(b)(3) & 28 USC § 636(b)(1)(C); see

also *United States v Wilson*, 864 F2d 1219, 1221 (5th Cir 1989, *per curiam*). The district court may accept any other portions to which there's no objection if satisfied that no clear error appears on the face of the record. See *Guillory v PPG Industries Inc*, 434 F3d 303, 308 (5th Cir 2005), citing *Douglass v United Services Automobile Association*, 79 F3d 1415, 1430 (5th Cir 1996, *en banc*); see also FRCP 72(b) advisory committee note (1983).

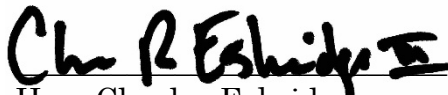
None of the parties filed objections. No clear error otherwise appears upon review and consideration of the Memorandum and Recommendation, the record, and the applicable law.

The Memorandum and Recommendation of the Magistrate Judge is ADOPTED as the Memorandum and Order of this Court. Dkt 92.

Defendant's motion to strike is GRANTED. Dkt 79. Plaintiff's motion for summary judgment is DENIED. Dkt 74. Defendant's motion for summary judgment is DENIED. Dkt 80.

SO ORDERED.

Signed on March 6, 2023, at Houston, Texas.


Hon. Charles Eskridge
United States District Judge